IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 497 of 2003

For Approval and Signature:

THE HON'BLE MR.JUSTICE A.R.DAVE
HON'BLE MR. JUSTICE MD SHAH

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?
5	Whether it is to be circulated to the civil judgte ?

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STATE OF GUJARAT - Petitioner(s)

Versus

KANUBHAI DAHYABHAI PATEL &8 - Respondent(s)

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Appearance :

PUBLIC PROSECUTOR for Petitioner No(s).: 1.

None for Respondent No(s).: 1, 2,3,4,5,6,7,8.

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CORAM :THE HON'BLE MR.JUSTICE A.R.DAVE

HON'BLE MR. JUSTICE MD SHAH

Date : 20/06/2005

ORAL JUDGMENT

(Per : THE HON'BLE MR.JUSTICE A.R.DAVE)

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1. The State has filed this acquittal appeal against the judgment and order dated 31st January, 2003 passed by the learned Additional Sessions Judge, Gandhinagar, in Sessions Case no.29 of 2001. During the pendency of the trial, accused no.1, who was the main accused expired, and, therefore, the proceedings had been abated so far as accused no.1 was concerned. Accused no.1 was charged under the provisions of Section 302 and 304B of the Indian Penal Code.
2. The circumstances relating to the Criminal Case as can be perused from the impugned judgment are as under:
   Deceased Jyotikaben had committed suicide and her three years old daughter Bhoomi had been strangulated by accused no.1 which resulted into her death. It was the case of the prosecution that accused no.1 was demanding dowry and being unable to resist the demand, ultimately deceased -wife had committed suicide.
3. Upon perusal of the evidence, in our opinion, the learned Judge of the trial Court has come to the right conclusion for the reasons stated herein below.
4. So far as the murder of Bhoomi, daughter of accused no.1 is concerned, as accused no.1 has committed suicide, the proceedings abated so far as he is concerned. So far as the charge under Section 304B is concerned, upon perusal of the evidence, it is clear that accused no.1 was the only person who had demanded dowry from the deceased. Evidence of Bharatiben, P.W.3, clearly reveals that accused no.1 used to demand Colour T.V. and other things from deceased Jyotikaben, and as it was not possible to give dowry , the deceased was constrained to commit suicide.
5. There does not appear to be any evidence against any other accused so far as charge which had been levelled against accused no.1 under Section 304B is concerned. Thus, there is no abetment so far as said charge is concerned.
6. In the aforesaid circumstances, the impugned order of acquittal has been passed. On independent appreciation of evidence, we are satisfied that the conclusion arrived at by the trial Court is just and proper.
7. We do not find any substance in the appeal and, therefore, the appeal is dismissed.

(A.R.Dave,J.)
(M.D.Shah, J.)

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